

Minutes of Meeting
Washington State Board of Optometry

A meeting of the Washington State Board of Optometry was called to order at 9:00 a.m., on Friday, December 2, 2005 by Thomas Riley, O.D., Chair. The meeting was held in Conference Room One, of the Department of Health Offices, Center Point Corporate Park, 20435 72nd South, Kent, Washington.

BOARD MEMBERS

PRESENT:

Thomas Riley, O.D., Chair
Laura Toepfer, O.D.
Lund Chin, O.D.
Jeffrey Sutro, O.D.
Mariann Tonder, O.D.
Mary Lou Staples, Public Member

STAFF PRESENT:

Gail Yu, Assistant Attorney General
Kristi Weeks, Staff Attorney
Steven Saxe, Executive Director
Judy Haenke, Program Manager

OTHERS PRESENT:

Karl Buettner, Wal-Mart Vision Center

ORDER OF AGENDA

OPEN SESSION:

1. CALL TO ORDER

1.1 Approval of Agenda

The agenda was approved with the exception of Item 2, Executive Director Report, which was moved to follow Item 1.3.

1.2 Approval of Minutes of September 9, 2005, Meeting

The minutes of the September 9, 2005 meeting were approved as written.

1.3 Board Chair Report

Thomas Riley, O.D., welcomed the newest Board member, Dr. Laura Toepfer. Dr. Toepfer was appointed by Governor Gregoire on September 12, 2005. Dr. Toepfer practices both in Olympia and Milton. As a new Board member, she attended an orientation meeting at the Olympia Department of Health office. At Dr. Riley's invitation, Dr. Toepfer provided some background of her practice history and activities.

Dr. Riley reported that at the September 2005 meeting, information from the Western Washington Area Health Education Center indicated optometrists could participate in its program. The program provides insurance for providers when they are engaged in primary, non-invasive care to low-income persons. The program also covers the cost of license renewal for retired volunteers. The Board asked that the Program Coordinator be invited to come to a future meeting to provide information on the program. After further review of the program, it was reported that optometrists would not be included as first indicated.

Regarding oral certification, there are 1521 active optometrists. There are 615 Optometrists with Diagnostic and Therapeutic endorsement, but without Orals certification, leaving 906 optometrists with oral certification. Not all optometrists with oral certification have certification for epinephrine. There is another course scheduled for this summer through Optometric Physicians of Washington.

2. Improving Patient Safety – Laurie Jenkins, Assistant Secretary, Health Systems Quality Assurance.

This presentation has been postponed for a future meeting.

3. Executive Director Report – Steven Saxe, Executive Director

Steven Saxe, Executive Director, addressed the Board on the following:

- The continued focus on investigation and processing of disciplinary cases, particularly on cases involving serious physical injury or death to a patient and sexual contact with or abuse of a patient.
- Ongoing awareness of the Prescription Monitoring Program
- New Member Board orientation was held at the Tumwater Department of Health Office for recently appointed members of the Board of Optometry, Board of Pharmacy and Veterinary Board of Governors.
- Sunrise Review of proposed changes to veterinary technician training requirements.
- Update on the status of Pharmacy Board Rules related to the standards for recording retail transaction (sales) of ephedrine, pseudoephedrine and phenylpropanolamine.

4. Program Manager Report – Judy Haenke, Program Manager

Judy Haenke, Program Manager, reported the following:

- There will be a Governor's Boards and Commissions Conference held at South Puget Sound Community College in West Olympia on December 20. Following

the conference, at 4:00 p.m., there will be a Governor's Reception at the Executive Mansion on the Capitol Campus. The conference will look at The Role of the Board and Commission in State Government, Serving as an Effective Executive Commissioner, and Ethics Training. It will cover the Governor's Goals, Message, and Legislative Agenda, talk about Outreach and community events and appointment of board members. The Board will be represented by Drs. Tonder and Toepfer and Mary Lou Staples.

- Fee Increase: There has been a study of the revenue and expenditures of the health care programs to determine if there should be a fee increase. Although optometry is not on the list of professions that will begin conducting a study to determine whether fees should be increased, optometry is on the list of professions that may see the need for a fee increase in the near future.
- Ms. Haenke reported on her participation in the SHB 1951 Expert Work Group, relating to school vision exams. The Department of Health was directed by the Legislature to re-evaluate visual screening in public schools and make recommendations regarding changes in the rules. The workgroup must consider, at least:
 - Visual screening or complete eye exams for K-12.
 - When should screening or exams be done; and
 - Consider what screening techniques would be appropriate.

The group includes representatives from Washington Academy of Eye Physicians and Surgeons, Optometric Physicians of Washington, Superintendent of Public Instruction, State Board of Health and the Department of Health. There will be a preliminary report to the legislature on December 1 2005, and the final on December 1, 2006.

5. Laura Toepfer, O.D., Report on Health Care Summit

Dr. Toepfer reported to the Board on the Governor Gregoire's Health Care Summit which she attended on October 25, 2005, at the Seattle Center. The emphasis of the *Health Care Summit* was the health care system in Washington – Taking Charge of Our Health.

Dr. Toepfer outlined the five areas of focus highlighted in the Conference.

1. Significantly increase the use of evidenced based medicine
2. Improve management of chronic care conditions
3. Increase transparency of the healthcare system.
4. Bring the system into the 21st century.
5. Take responsibility for our personal health and that of others by promoting healthy lifestyles.

10:15 a.m. DISCUSSION

6. Post Graduate Education Seminar

The speakers have all confirmed, and a program is in place, subject to minor changes. The schedule allows for fourteen hours of post-graduate education. The featured speaker, Dr. Judy Tong, will speak on Sunday, before and after lunch.

Dr. Tonder suggested that the Board develop a paper of the Ten Top Categories of Complaints (or concerns) against optometrists. The Board agreed that the list would be useful in providing information to licensees. The list will be incorporated into the program and highlighted during the seminar. Staff will prepare a draft list for review.

7. Delegation of Signature Authority for Subpoenas.

At its September meeting the Board formalized signature authority to DOH staff for some disciplinary and rulemaking functions. In a letter to Steven Saxe, Executive Director, Chief Investigator, David Magby requested delegation for investigative subpoenas for himself and Assistant Chief Investigators, James Smith and Donald Painter. Mr. Magby requested this delegation to sign investigative subpoenas when they become necessary in the investigative process to help the investigation move in a more timely and efficient manner.

Following discussion, the Board agreed to delegate signature authority for investigative subpoenas to David Magby, Chief Investigator, and Assistant Chief Investigators James Smith and Donald Painter.

8. Decorative Contact Lenses Regulated as a Medical Device.

President Bush has signed S-172 into law. This bill amends the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, including zero power decorative contact lenses. Consumers will now be required to see a prescriber for plano, or non-corrective contact lens prescriptions.

Following discussion The Board recommended that a definition of “zero power” lenses be included in the Consumer Access to Vision Care Act. The definition will be incorporated into the current draft of the rule amendments.

9. Continuing Education

Thomas Riley, O.D. presented the following courses to the Board for approval.

Virginia Mason Hospital, Unique Case Studies. Approved for one hour. King County Optometric Society, September 20, 2005.

Casey Eye Institute, Update on Vision Rehabilitation and Management of Common Retinal Diseases. Approved for seven hours, Oregon Board of Optometry, August 19, 2005.

Pacific Cataract and Laser Institute, Non-ocular Emergencies, Evaluation of Epiphora and Corneal Anomalies. Approved for three hours and presented September 23, 2005.

Portland Veterans Medical Center: Age-related Macular Degeneration. August 8, 2005. Approved for one hour.

Lorman Educational Services, Confidentiality of Medical Records in Washington. To be presented at LaQuinta Inn, January 24, 2006. Approved for three hours.

Heart of America Contact Lens Society, Practice Management. Presented in Kansas City Missouri, February 10, 11 and 12, 2006. Approved for thirteen hours.

Terrence T. Clark, OD, Web Resources for Patient Care, Group Health. November 1, 2005. Approved for three and one half hours.

Portland Veterans Medical Center: VISN 20 Optometry Grand Round Presentation. Portland, OR, November 8, 2005. Approved for one hour

Northwest Eye Surgeons: Multiple Evanescent White Dot Syndrome, Refractive Lens with New Technology IOLs and Strabismus Cases in Seniors. February 15, 2006. Approved for one hour.

9.2 Designation of Reviewer for Next Quarter.

Laura Toepfer, O.D., will be the primary reviewer through March 17, 2006. Lund Chin, O.D. will provide back-up as needed.

10. Update on Rules.

10.1 WAC 246-851-180 Credit for lecturing.

The Board discussed amending this rule to require that lectures developed by licensees and submitted for approval under this section must be at a post-graduate level and be presented to peers or other vision care practitioners. After further review, the Board determined that the current language of the rule requires that the lectures be in optometric education and be subject to Board approval. Therefore the Board agreed to not take any action on the rule.

10.2 WAC 246-851-550 Sexual misconduct.

Secretary Selecky has directed the 23 Secretary professions to adopt clear and consistent rules regarding sexual misconduct. The Office of Health Professions Quality Assurance filed documents on November 2 with the Code Reviser to start the rule-making process for the 23 Secretary professions. Rules are expected within a year.

Several boards and commissions have adopted, or are in the process of adopting, sexual misconduct rules. They are the Chiropractic Quality Assurance Commission; Medical Quality Assurance Commission; Nursing Care Quality Assurance Commission; Occupational Therapy Board; Optometry Board; and the Examining Board of Psychology. Copies of those rules are in the packet. The Secretary has urged the remaining Boards and Commissions to adopt sexual misconduct rules.

After discussion, the Board agreed that it would not take any action until the rules developed by the Secretary are available for review.

10.3 WAC 246-852-040 Retention of patient contact lens records.

At its September 2005 meeting, the Board discussed recommending a change in the retention of records to seven years to reflect the Health Insurance Portability and Accountability Act (HIPAA) requirements. Staff reported that there is a HIPAA requirement for retention for a period of six years of privacy policies and procedures, privacy practices notices, disposition of complaints and other action required to be documented. There is no specific HIPAA requirement for retention of patient health care records. The Board agreed to not pursue a change in the retention of patient contact lens records.

11. Budget Report.

The Board reviewed revenue and expenditures for the month ending October 2005.

12. Election of Officer for 2006.

The following officers were elected for the 2006 calendar year.

Chair: Jeffrey Sutro, O.D.

Vice-Chair: Lund Chin, O.D.

Secretary, Marianne Tonder, O.D.

13. Set Meeting Dates for 2006.

The following meeting dates have been set for 2006:

March 17, 2006 – Center Point in Kent

March 18-19, 2006, Post-Graduate Education , University of Washington

June 16, 2006 – Center Point in Kent

September 15, 2006 – To be determined.

December 1, 2006 – Center Point in Kent

14. Other Open Session Business

LUNCH: 12:00 p.m. to 1:00 p.m.

1:00 p.m. CLOSED SESSION:

15. Presentation of Stipulations to Informal Disposition

Kristi Weeks, Staff Attorney, presented, and the Board accepted, the following Stipulations to Informal Disposition.

2005-08-0001OD

2005-05-0001OD

16. Review of License Applications

The Board reviewed and approved one application for reinstatement of licensure.

17. Disciplinary Case Review

2004-12-0002OD

ACTION: Closed - Evidence Does Not Support Violation

2005-01-0002OD

ACTION: Closed- Complaint Withdrawn

2005-03-0003OD

ACTION: To Legal

Authorization for Investigation

2005-11-0003OD – Investigation Authorized

2005-12-0001UK – Investigation Authorized

18. Adjournment

The meeting was adjourned at 3:30 p.m.

Respectfully Submitted:

Judy Haenke, Program Manager

Approved:

Thomas Riley, O.D., Chair

SIGNATURES OF FILE